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Attorney Docket 037267-0142

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshiki WAKIZAKA

Title: CELLULAR SYSTEM AND METHOD OF MAKING
COMMUNICATION IN MULTI-CODE CDMA

Appl. No.: 10/031,344

Filing Date: May 10, 2002

Examiner: Unassigned

Art Unit: 2661

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §1.56

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of documents known to applicant in order to comply with applicant's duty of disclosure pursuant to 37 CFR §1.56.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

TIMING OF THE DISCLOSURE

The listed documents are being cited in compliance with 37 CFR §1.97(b), before the mailing date of the first Office Action on the merits. Therefore, no fee is believed to be due.

RELEVANCE OF EACH DOCUMENT

Documents E1-E3 were cited in a patent office communication in a corresponding European application. Document E1 is in English. Documents E2 and E3 are in Japanese.

Document E1 was previously cited in an Information Disclosure Statement filed March 3, 2005. Documents E2 and E3 were previously cited in an Information Disclosure Statement filed February 12, 2004. Thus no copies of documents E1-E3 are attached.

A portion of the European Patent Office communication dated May 27, 2005 is provided below.

D1: EP 0684744A2
D2: JP-S-8 307 928
D3: JP-A-6 121 371

...The document D1 discloses (the references in parentheses applying to this document) the same solution, i.e. channel borrowing, for a general system. In the wording of claim 4, these features are:

a cellular system including:
at least two base stations (page 2, line 38);
a mobile station for communicating with said base stations (page 2, lines 45-46);
a host station for controlling communication made between said base stations and said mobile station (page 5, lines 21-27), such that
on receipt of a request of starting communication in n channels ($n \geq 2$) from said mobile station (page 2, line 47; page 5, lines 31-32)
one of said base stations is operable to check whether the available channels are less than n and to transmit the result to said host station (page 6, line 43-44),
said host station is operable to receive said result from said one of said base stations (page 6, line 44) and the mobile station is operable to
instruct said one of said base stations to start communicating if n channels are available (page 3, line 44; page 6, lines 52-53)
instruct said one of said base stations to start communicating with m codes (page 3, line 44) and to further instruct at least one other base station to start communicating with $(n-m)$ codes (page 3, lines 45-46) if $m < n$ channels are available, and
said mobile station is operable to communicate with said one of said base stations with m codes and with said at least one other base station with $(n-m)$ codes (page 3, lines 44-46 and lines 51-52).

As can be seen, D1 discloses the same channel assignment procedure as in the application, for a system which is CDMA but does not explicitly employ multicode transmission.

Furthermore, document D1 provides the above system as a solution to the problem of efficient allocation of system resources (cf. D1 page 2, lines 4-5 and 10-11 and page 3, lines 14-15), especially in the case when these are not available from a single base station, thereby avoiding call rejection.

To this respect, note also that the term "channel" is used in D1 in the broad sense of "resource allocated to a user" (cf. e.g. page 3, lines 30-31 and page 2, lines 31-35). In multicode CDMA, the number of codes associated to a single user represents indeed the system resources of that user, as is also acknowledged by the applicant on page 1, lines 24-25.

It follows that the man skilled in the art, faced with the problem posed in paragraph 9, would definitely consider the option of channel borrowing, as suggested by D1 for solving it, thereby arriving at the subject-matter of claim 4. **Consequently the subject matter of claim 4 is not deemed as inventive in the sense of Article 56 EPC.**

[D2 and D3 were cited only as background prior art.]

The statements above from the European Patent Office communication should in no way be considered as an agreement by applicant with, or an admission of, what is asserted in the communication.

English language translations or English language counterparts of documents E2 and E3 are not available; however, English language abstracts were provided with the Information Disclosure Statement filed February 12, 2004. The absence of translations or English language counterpart documents does not relieve the PTO from its duty to consider the submitted documents (37 CFR §1.98 and M.P.E.P. § 609).

In view of the additional information pertinent to relevance provided herein, applicant respectfully requests that the listed documents be considered by the Examiner and formally be made of record in the present application and that an initialed copy of Form SB/08 be returned in accordance with MPEP §609.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

Respectfully submitted,

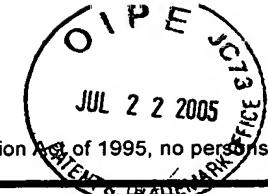
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Substitute for form 14495 PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT Date Submitted: <u>July 22, 2005</u> (use as many sheets as necessary)				Complete if Known	
Sheet	1	of	1	Application Number	10/031,344
				Filing Date	05/10/2002
				First Named Inventor	Yoshiki WAKIZAKA
				Group Art Unit	2661
				Examiner Name	Unknown
				Attorney Docket Number	037267-0142

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (if known)			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Documents	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (if known)				
		E1	EP	0 684 744	A2	BENVENISTE	11/29/1995	
		E2	JP	8-307 928			11/22/1996	ABS
		E3	JP	6-121 371			04/28/1994	ABS

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ⁶

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.

⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

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